

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4241 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHINTAN TEXTILES PVT LTD.

Versus

STATE OF GUJARAT

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Appearance:

MR AM KAPADIYA for Petitioner

MS HARSHA DEVYANI for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/11/97

ORAL JUDGEMENT

1. This matter was ordered to be heard along with the special civil applications Nos.2908/84, 4269/84 and 4240/84. All these matters have already been decided by this court as it transpires from the office note. Heard the learned counsel for the parties.

2. This Court on 17th October, 1984 passed the order, which reads as under:

The petitioner challenges the legality and validity of the notices at annexures A and B dated 11/15th June, 1984 and 16/20th June, 1984 respectively. By the notice at annexure-A the petitioner was called upon to show cause as to why he failed to give necessary details in form No.4 as required under the provisions of Section 15 read with section 8 of the Urban Land (Ceiling & Regulation) Act, 1976 within the prescribed limit of three months and further informing that the permission granted under Section 27 of the Act has been cancelled under the provisions of Section 34 of the said Act. By the second notice at annexure-B to the petition, the petitioner has been called upon to show cause as to why penal action under section 18 of the Urban Land (Ceiling & Regulation) Act should not be taken against the petitioner. The aforesaid notices are challenged on various grounds. The contentions raised by the petitioner are essentially questions of facts which require examination by authorities under the Act. Therefore, there is no reason why the proceedings before the competent authority under the Act should be stayed at this stage. No other contention is raised.

The interest of the petitioner can be protected by directing that the final order that may be passed by the competent authority pursuant to the show-cause notices at annexures A & B shall not be implemented for a period of one month from the date of communication to the petitioner; and it will be open to the petitioner to challenge the same before the appropriate forum even by way of amendment of the petition if permitted by the Court. The ad interim relief granted earlier is modified to the aforesaid extent.

The competent authority is directed to give sufficient notice to the petitioner before proceeding further with the show cause notices, meaning thereby, the petitioner will be given reasonable time and opportunity of being heard in accordance with law.

3. The petitioner has come up before this Court at the stage when it was given the show cause notice. This Court had not stayed the proceedings before the

authority, and the authority, by now, would have decided the matter finally. This Court has protected the petitioner for a period of one month where the final order has been passed and the liberty has been given to the petitioner to challenge the same before appropriate forum even by way of amendment of the petition. This order has been passed in the year 1984 and, by now, the matter would have been finally decided. From the very fact that the petitioner has not prayed for the amendment of this special civil application, the possibility that the matter has been decided in its favour cannot be ruled out. However, when the matter has been directed to be decided finally and during this period it would have been decided finally, otherwise also, nothing now survives in this special civil application. The petitioner has been given the liberty to challenge those orders by taking appropriate remedy and there is also possibility that in case the matter would have been decided against the petitioner, it would have taken the appropriate remedy also.

4. Above that, this petition is filed only at the stage when the petitioner was given the show cause notices by the respondents. The writ petition against the show cause notice is not maintainable and reference in this respect may have to the decision of the Apex Court in the case of Executive Engineer B.S.H.B. vs. Ramesh Kumar Singh reported in 1996 (1) SCC 327. In such matter, the petitioner should have first approached to the authority concerned and raised all the objections in reply to the show cause notice and take a decision, and only in case, the decision goes against it, it could have taken the appropriate remedy available to it or to approach this Court where it is permissible. But this practice of approaching directly to this Court against the show cause notices has to be deprecated.

5. Taking into consideration the totality of the facts of this case, nothing now survives in this special civil application and the same is dismissed. Rule discharged.

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